COURT NO.3

Criminal Revision no. 101 of 2002

Kulwant Singh ..Revisionist

Versus

State of Uttaranchal & another ..Respondentds.

Hon'ble Irshad Hussain J.

This is a criminal revision against the order dated 17.09.2002 passed by First Fast Track Court/Addl.Sessions Judge, Roorkee, District Hardwar in S.T.No.197 of 1997, allowing the application of the prosecution under section 319 of the Code of Criminal Procedure (hereinafter in short 'Code') and issuing summons to four accused who have been nominated in the F.I.R. and overt acts to them have also been attributed in the evidence of complainant Isham Singh (P.W.1).

Heard Sri Pawan Kumar, learned counsel for the revisionist, A.G.A. and Sriu Lok Pal Singh, learned counsel for the complainant.

Learned counsel for the revisionist submitted that while passing the impugned order learned Addl. Sessions Judge did not take in account the fact that there are no accused of the name of Gurvendra Kaur, Premjeet and Harjeet and that without ascertaining the correct names the order was passed and that it indicate that the P.W.1 complainant was not even sure of the identity of the accused. It need to be mentioned that in the F.I.R. (Annexure 1) five accused were named and charge sheet was submitted only against one accused Billa son of Kulwant Singh. Charge was framed against the accused and when the prosecution case was opened for recording of the evidence complainant P.W.1 corroborated the version of the F.I.R. naming all the five persons as the assailants. At the stage of the trial and also in this revision there is no scope to probe as to whether or not these other

four accused participated in the commission of crime. For invoking powers to summon the accused under section 319 of the Code it is sufficient if these accused are named in the F.I.R. and their role in the occurrence is asserted in the evidence by the eye witness of the incident. Considering the mandate of the provisions there appears to be no illegality in invoking the said jurisdiction and passing an order to summon these four accused to stand trial alongwith the accused chargesheeted by the police.

As regards the identity of these four accused is concerned, it need to be mentioned that in the F.I.R. as well as in charge-sheet accused Billa was named although his real name is Arvind Singh as mentioned in the extract of the family register (Annexure 7) brought on record by the revisionist. The names of the wife and two daughters of Kulwant Singh are also mentioned in this extract. The correct names mentioned are Smt. Gulvinder Kaur, Km. Harpreet Kaur and Km. Gurmeet Kaur, whereas these female members of the family of Kulwant Singh were referred with the names as Gurvender Kaur, Harjeet and Premjeet not only in the F.I.R. but also in the statement of P.W.1 and this is indicative of the fact that their names were mis-spelt by the informant P.W.1 who otherwise is definite about the identity of those persons. The informant had mis-spelt the names which is also obvious from the fact that the name of the son of Kulwant Ssingh has been mentioned as Billa contrary to his real name Arvind Singh. Since it was a case of names being mis-spelt the identity of the accused is not in dispute. There is no illegality in the order passed by the learned Addl. Sessions Judge. There can no gain saying that in view of the material on record question of appraisal of the evidence at this stage about the involvement of these four accused does not arise. The impugned order being just and proper the revision is liable to be dismissed.

The revision is dismissed accordingly.

(Irshad Hussain J.)

26.11.02/B.